



NASA DESK GUIDE

on

Frequently Asked Questions About Human Resources Issues

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PAGE 2.... Introduction

This Guide serves as a source book to frequently asked questions about human resources (e.g. Intergovernmental Personnel Act (IPA), Temporary and Term Appointments, Excepted Appointing Authorities, Employment of Experts and Consultants, Position Classification etc.). This first Guide includes questionnaires about the IPA Program and Temporary and Term Appointments. The Guide will be periodically updated to include additional information and new sections.

PAGE 3.... Intergovernmental Personnel Act (IPA) Questionnaire

This questionnaire includes frequently asked questions about the IPA Program including the recently revised IPA regulations delegating to agencies the responsibility for determining whether nonprofit organizations were IPA eligible.

PAGE 9.... Temporary and Term Appointments Questionnaire

This questionnaire includes frequently asked questions about temporary and term appointments.

Intergovernmental Personnel Act (IPA) Questions and Answers

1. **Question:** Is there a minimum employment requirement before an individual is eligible to participate in an IPA assignment?

Answer: Yes, the individual must have been employed on a permanent basis by the eligible organization for at least three (3) months prior to the IPA assignment.

2. **Question:** Can a foreign national be hired under an IPA appointment if working for an eligible IPA organization?

Answer: Yes, the Space Act would be cited as the authorization for the non-citizen appointment.

3. **Question:** Is the Administrator's approval required before a foreign national can be given an IPA assignment?

Answer: Yes, all assignments, whether by detail or appointment, of foreign nationals under the IPA program require advance approval by the Administrator. Refer to NPG 3300, Chapter 5 for a detailed description of the process required to gain approval to appoint (or detail, if IPA assignee) a foreign national.

4. **Question:** Is it possible to give a monetary award to an IPA who is detailed to your organization?

Answer: Yes; if the assignment agreement provides for the reimbursement of funds to the non-Federal organization, the non-Federal organization would give the award to the assignee and receive reimbursement from the Federal organization.

5. **Question:** If an individual is employed by an IPA eligible organization and moves to another IPA eligible organization without a break in employment, does the individual have to be employed with the new organization for 90 days before being eligible for an IPA assignment?

Answer: No, you can count the time with the initial organization towards the 90-day requirement, as long as the initial organization was also IPA eligible.

6. **Question:** A prospective IPA participant being considered for a highly technical job is asking for \$65.00 per hour. The employee is currently working as a consultant for a non-profit organization. The per hour rate being requested is based on fees the employee currently receives when performing consultant work. The employee does not perform this work on a full-

time basis and has no documents to support this rate on an annual basis. Can this salary be paid?

Answer: There are no Comptroller General decisions or existing laws or regulations concerning caps on the payment of salary to IPA participants. In accordance with discussions with OPM, the use of current or previous salary to determine rates of pay is acceptable. The individual does not need to show a document reflecting this rate; however, agency has a fiduciary responsibility to ensure that monies paid are in the best interest of the government. There is no cap on the salary that can be reimbursed; however, it should be consistent with the salary the individual is receiving in the private sector.

7. **Related Question:** Can the participant under the IPA Program be hired on a contractual basis rather than being appointed as a Federal employee? Can R&D funds be used to pay for the contractual agreement?

Answer: Yes, participants under the IPA Program can be hired on a contractual basis or appointed. There is no problem with the use of R&D funds to cover an IPA contract. R&D dollars have been used to support the IPA program on a number of occasions.

8. **Question:** Can an agency pay fees (e.g. administrative overhead charges) in addition to salary for incoming IPA assignments?

Answer: No.

9. **Question:** How would an IPA appointment impact an annuitant who is currently working for an eligible organization and has been approved for an IPA assignment to the Federal Government? (The following three questions are related issues)

a. Is the annuitant eligible to pay into the Federal retirement system? If not, what is the regulatory cite?

Answer: No, the annuitant is not eligible. Title 5, United States Code, Chapter 83, Section 8344.

b. If the individual appointed is a Federal annuitant, is the employee treated as a reemployed annuitant (i.e., salary reduced by annuity)?

Answer: No, the employee would not be treated like a reemployed annuitant; salary would not be reduced.

c. If the appointee does not contribute to the Federal retirement system during the appointment, is the individual eligible to make a deposit for his length of service served on appointment under the IPA after the appointment ends; thereby being eligible for

either a supplemental annuity or a redetermined annuity depending on the number of years of the IPA appointment?

Answer: No, the annuitant cannot make a deposit for his IPA service.

There is no provision that would allow an annuitant to receive any of the additional annuity benefit due to an IPA assignment to the Federal Government. Further, there is no provision to withhold the amount of the annuity benefit, or stop the annuity payment.

- 10. Question:** An IPA participant is about to complete a current IPA assignment. Is the Center required to provide Headquarters or OPM a report concerning termination/completion of the IPA assignment?

Answer: No reports are required to be submitted either to OPM or to Headquarters on the completion of an IPA assignment.

- 11. Question:** 1) Can a person be hired under an IPA appointment and be placed in a supervisory position; and 2) If so, are there any senior level people at NASA on IPA appointments or any IPA appointees that are currently in supervisory positions?

Answer: 1) Yes, there are no provisions in the IPA regulations which restrict IPA appointees from being placed in supervisory or senior level positions. 2) NASA has used the IPA program on a number of occasions to fill senior level and supervisory positions.

- 12. Question:** Does the NASA Administrator have to approve IPA appointments made at Grades GS-15 and above?

Answer: No, there is no requirement for the NASA Administrator to approve salary levels for IPA appointments. This would include salary levels above the GS-15 level.

- 13. Question:** Is the University of Puerto Rico an approved university for purposes of the IPA Program?

Answer: Yes.

- 14. Question:** What is the NASA policy concerning the length of IPA appointments?

Answer: Center Directors have the authority, which can be redelegated, to approve IPA assignments for up to 2 years with up to a 2 year extension. (This delegation does not apply to assignments of SES employee, assignments of nonFederal employees to SES positions, or assignments of noncitizens.)

15. Question: Do the same guidelines apply to university personnel on IPA assignments as for state and local government employees? For example, state and local IPA assignees can supervise Federal government employees. Does this also apply to university personnel?

Answer: Yes, the guidelines are the same.

16. Question: Can university personnel be brought to NASA on an IPA on an excepted appointment?

Answer: Yes.

17. Question: Can permanent employees from a foreign university participate on IPA assignments?

Answer: No, IPA regulations restrict eligibility to employees of domestic universities, public or private.

18. Question: What IPA files will be maintained by the NASA Office of Human Resources and Education?

Answer: The NASA Office of Human Resources and Education will maintain a file of all IPA assignments, as well as IPA extensions beyond one year that have been approved by the Associate Administrator for Human Resources and Education.

19. Question: Can relocation fees be paid for employees going on IPA assignments outside the commuting area?

Answer: Yes.

20. Question: Who approves IPA certifications for nonprofit organizations?

Answer: Center Directors have the authority, which can be redelegated, to approve non-profit organizations as IPA-eligible.

21. Question: Often University professors are not called career or permanent, but have worked at the University for many years with an expectation that they will return each year. Are these employees eligible for an IPA?

Answer: Yes, If the employee has been working for the University and has every expectation of continuing to work at the University each year, these employees are eligible for an IPA assignment.

22. **Question:** What is the process for requesting a waiver of the 4-year limitation on an IPA assignment?

Answer: OPM will not consider waivers of the 4-year limit as this requirement was established in law and OPM has no legal basis to waive the requirement.

23. **Question:** Are IPA participants eligible for per diem and travel reimbursement?

Answer: Yes, IPA participants are eligible for either relocation to and from the assignment or per diem; and for any temporary duty travel expenses associated with the IPA assignment.

24. **Question:** If a NASA employee goes on leave without pay to be assigned to a nonFederal entity under the terms of an IPA agreement, elects to be covered under the nonFederal organization's health benefits program, and terminates his/her FEHB coverage while under the other health benefits program, has the employee broken his/her continuous coverage for purposes of continuing health benefits coverage into retirement?

Answer: The answer depends on whether the nonFederal organization's health benefits program is determined by the Office of Personnel Management to be similar to the health benefits programs for Federal employees. If they are similar, and the employee elects coverage under the nonFederal entity's program, he/she is not entitled to continue coverage under FEHB. Consequently, his/her termination of FEHB coverage is not treated as a break in continuous enrollment necessary for continuing coverage during retirement. However, if OPM determines that the nonFederal organization's health benefits program is not similar to the Federal health benefits programs and the employee elects to terminate FEHB coverage and be covered under the other program, the employee has broken his/her continuous coverage. If broken, the employee will be required to start a new 5-year period of enrollment before being eligible to continue health benefits coverage into retirement.

25. **Question:** Can an individual assigned to NASA under an IPA agreement be reimbursed for personal liability insurance?

Answer: If the individual is detailed to NASA—which is the usual way of effecting IPA assignments to NASA—he/she cannot be reimbursed. The statute authorizing reimbursement for liability insurance is applicable to employees as defined in 5 USC 2105, which does not include IPA detailees. If the individual is assigned to NASA through an appointment, he/she can be reimbursed.

26. Question: Can an individual assigned to NASA under an IPA agreement be defended by DOJ if he/she is personally sued for something done within the scope of his/her job as an IPA?

Answer: It depends. If DOJ believes that the action at issue is within the scope of the IPA's Federal duties, DOJ will provide representation. In this instance, it does not matter if the person is assigned to NASA under an appointment or a detail.

Term and Temporary Appointments

(Questions and Answers as of February 6, 1998)

1. **Q: Can you announce a position as temporary or term, may become permanent, and noncompetitively convert the appointee to a permanent appointment?**

A: No, September 1996, OPM's General Counsel's office determined that there was no law or regulation that allowed for such a conversion. In fact, they stated such conversions would be interpreted as a prohibited personnel practice under 5 U.S.C. 2302 (b)(6), since it grants a "preference or advantage not authorized by law, rule or regulation."

2. **Q: Are you required to announce a temporary position?**

A: Yes, you can use an abbreviated rating process under 5 CFR 333, Outside the Register hiring, but you must first provide public notice. Additionally, if the position is to be filled for longer than 120 days, CTAP/ICTAP regulations apply.

3. **Q: When will NASA's exception to the new temporary regulations expire? Do we plan to request an extension?**

A: Our exception expired 9-30-97. We are not pursuing any further exception at this time.

4. **Q: If I fill a Secretary (Typing), GS-5 in one organization on a temporary appointment for 2 years; can I now fill a Secretary (Office Automation), GS- on a temporary? Can I fill a GS-6?**

A: Yes, although you could not fill a Secretary (Typing), GS-5 at this time (within the same major organizational unit), due to the provision that you can not fill a position by temporary appointment if that position had previously been filled by temporary appointment for an aggregate of 2 years, within the preceding 3-year period; you could fill a similar position, (i.e. office automation or higher grade level.)

5. **Q: If an employee is on a term appointment, nte 2 years, can the appointment be extended to the maximum 4 years?**

A: Yes, if the original vacancy announcement stated that the appointment could be extended.

6. **Q: Can a term appointee reassign to a different term position?**
- A: Yes, if the non-competitive growth potential is no greater than that of the position the employee is moving from.
7. **Q: If a term appointee is approaching the end of his/her 4 years, can the position be reannounced and the same person be selected for an additional 4 years?**
- A: Yes, however, this must be a competitive appointment (using an external authority such as Delegated or Direct Hire authority), and CTAP/ICTAP applies to the new competition.
8. **Q: Does adverse action procedures apply to terms and temps?**
- A: Adverse action procedures apply to a term appointee if the agency wishes to separate the employee prior to the end of his/her term. These procedures do not apply to temporary appointees.
9. **Q: Can we use a permanent announcement to select a term appointee?**
- A: Yes, if you select by rule of three and give all eligible candidates an opportunity to identify whether or not they would accept a term appointment.
10. **Q: Can you accrete on a term appointment?**
- A: Yes
11. **Q: Can you hire an attorney on a term appointment?**
- A: No, the term and temporary limited authorities only apply to competitive service positions. However, you can announce an excepted position as Appt NTE. There is no limitation on the number of years an excepted position can be filled on a nonpermanent basis. If an excepted appointment is set up for less than one year, the provisions of the temporary limited authority apply to the appointment.
12. **Q: If a current status candidate is selected for a term appointment, how are they coded?**
- A: The action would be coded as a conversion to term appointment, based on reinstatement eligibility.

13. Q: Can employees holding term appointments participate in the Accelerated Training Program?

A: Yes. Term appointments based on projects or otherwise nonpermanent situations would not generally be an appropriate use of the accelerated training program. However, we currently have a number of term appointees on otherwise permanent positions, such as some of our cooperative education employees who were converted to term appointments, which could be an acceptable use of this training program. Remember, however, that AST entry level positions are the only positions at this time, which are covered by an official accelerated training plan.

14. Q: If a status employee is converted to a term appointment, is the employee eligible for a buyout while on the term appointment?

A: No.

15. Q: If a status employee is covered by CSRS and converts directly (with no break in service) to a term position, can the employee retain his/her CSRS coverage?

A: Yes, the employee can retain coverage under CSRS. Otherwise, employees placed on a term appointment are covered by FERS only; and are specifically excluded by regulation from coverage under CSRS.

16. Q: If a status employee is converted to a term position, and would have otherwise been eligible for grade and pay retention based on the position they occupied prior to the conversion to term, is the employee eligible for grade and pay retention while on term appointment?

A: Yes. If the employee met the eligibility requirements for pay and grade retention based on a permanent position (the 'from' position), the employee is still eligible for pay and grade retention whether the 'to' position is permanent or term.

